

Exhibit K

1 DEPARTMENT OF POLICE ACCOUNTABILITY

2 DPA CASE NO.: 0164-16

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4 INTERVIEW OF: [REDACTED]

5 DATE OF INTERVIEW: 04/21/2016

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8 [Transcriber's Note: Audio quality of the following
9 transcribed recording was poor and portions of the conversation
10 unintelligible as indicated.]

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12 INVESTIGATOR WECHTER: Today's date is April 21st, 2016,
13 it's [unintelligible]. This is [unintelligible] Investigator
14 Wechter conducting a telephone interview with [REDACTED].
15 [REDACTED] are you aware that you're being recorded?

16 [REDACTED]: Yes.

17 INVESTIGATOR WECHTER: [unintelligible] Is that
18 correct?

19 [REDACTED]: Yes.

20 INVESTIGATOR WECHTER: Okay, so why don't you just tell
21 me what you know [unintelligible].

22 [REDACTED] Um, it's my understanding that on April 7th
23 of this year, 2016, around 10:00 a.m. two police officers—
24 Sergeant Nate [unintelligible] and Officer Michael Malone fired
25 four bean bag shots [unintelligible]. And from there has been
26 several witness statements in the news, eight to be exact, which
27 contradicts the police narrative of the shooting as it was
28 provided at the town hall meeting where police insist that Luis

1 threatened them with a knife but all the eyewitness statements
2 say that he was actually on the ground when he was first
3 approached. So he was not a threat and they immediately started
4 using the bean bag weapons [unintelligible] impact weapon, I
5 can't remember what it's called.

6 INVESTIGATOR WECHTER: [unintelligible]

7 [REDACTED]: An extended range impact weapon. And it's my
8 understanding that—maybe you can clarify this—but even this
9 weapon cannot be used without some type of threat and all the
10 witnesses say that he was on the ground and some of them say that
11 he might have had a knife on him but he was not in any way
12 threatening the officers because this would mean that they acted
13 without—outside the bounds of the San Francisco Police Department
14 General Order on how they can use their weapons. And this in turn
15 actually escalated the situation. So it was a misuse of that
16 weapon. And so—because it escalated because Luis got up to run
17 away from the pain and officers at that point decided to used
18 bullets. If fact one witness says that it was simultaneously
19 using bean bag rounds and bullet which in any case defeats the
20 purpose of trying to use a non-lethal or a less lethal weapon.

21 So it seems to me that they acted illegally. They acted
22 outside of policy and there has to be—there has to be
23 accountability for this shooting. And the OCC hasn't followed all
24 the witness complaints on the website that has begun just
25 [unintelligible] under Luis' story there's a series of a
26 collection of the narrative of both the police and the witnesses.

27 INVESTIGATOR WECHTER: You said that's justice, numeral
28 four, luis.org?

1 [REDACTED]: Yes. And then there's a page called Luis's
2 story.

3 INVESTIGATOR WECHTER: Is that [unintelligible]?

4 [REDACTED]: L-u-i-s apostrophe s.

5 INVESTIGATOR WECHTER: Story?

6 [REDACTED]: Yeah.

7 INVESTIGATOR WECHTER: Luis's story and
8 [unintelligible].

9 [REDACTED]: Well it's a--no, it's a page within the
10 website we just talk about it.

11 INVESTIGATOR WECHTER: Okay. So there's the main website
12 justice4luis.org [unintelligible]. Is that different from the
13 Facebook page?

14 [REDACTED]: Yes, yes.

15 INVESTIGATOR WECHTER: I'll take a look at that. So just
16 to clarify, this is a complaint against Majors and Malone or
17 other officers [unintelligible].

18 [REDACTED]: I believe that there's a third officer and
19 either he is--I imagine because--who didn't use a weapon. That's
20 at least what we've been told. I don't know if that's true. And
21 I'm--it's from the moment of how they approach. I believe also
22 that it should be policy that the check in with the S.F.
23 [unintelligible] team and there's a clear video showing that the
24 guy [unintelligible] didn't even actually check in with the
25 [unintelligible] team to [unintelligible] the call.

26 And I also, you know, went [unintelligible] and I think they
27 have provided us a town hall meeting, a very selective narrative
28 which confused the public into thinking that Luis actually

1 somehow threatened officers, that this was just a false narrative
2 because it's unclear in the list of testimony that they provided
3 who was saying what, which are officers statements, which are
4 statements from independent eyewitnesses. And so they haven't
5 even collected all what the sequence [unintelligible].

6 Anyway, so I believe this is [unintelligible] the San
7 Francisco Police Department is actively covering up facts that
8 will find the officers that they acted outside the bounds of the
9 law that allow them to use lethal force.

10 INVESTIGATOR WECHTER: [unintelligible]

11 [REDACTED]: Yeah, actively covering up facts that would
12 show that Luis Gongora was not a threat and that the officers
13 acted outside the bounds of the law that allowed them to use
14 weapons or even in the way that he was approached. Just their
15 whole approach to this.

16 INVESTIGATOR WECHTER: So what [unintelligible].

17 [REDACTED]: At the town hall meetings but also that
18 they're—it looks like they're actively covering up and I'm
19 concerned that they're actively covering up the facts that could
20 lead to either an indictment or [unintelligible] consequences or
21 other repercussions for the officers.

22 INVESTIGATOR WECHTER: So is your focus—do you want the
23 focus of [unintelligible]?

24 [REDACTED]: Well, the Chief of Police in terms of what he
25 said at the town hall meeting but also the investigators who have
26 provided this evidence to the investigation of the case which
27 could be, I don't know, it could be the CSI team. It could be—I
28 don't know who else is involved. And of course I'm not—I'm not an

1 expert on SFPD ordinances but I imagine that these officers have
2 obligations in terms of what type of commands they do, how much—
3 and, you know, dealing with a—they knew they were coming to a
4 homeless population. Some obligations that they have in terms of
5 interacting with the population and I want it to be reviewed
6 whether they acted within policy or law. And in the end I'm also
7 wondering if this is a case of racial profiling because this was
8 a Latino indigenous man. I'm concerned because of the ongoing
9 scandal around racist texts. Also, it's been mentioned in a news
10 article that Malone transferred from another station. I can't
11 remember, let me see if I can look it up here. That he may have
12 come from Antioch and that he was part of a Federal lawsuit there
13 for excessive use of force. And so the hiring practices of this
14 officers also come into question.

15 INVESTIGATOR WECHTER: Okay. So do you want the focus of
16 the complaint to be [unintelligible]?

17 [REDACTED]: I mean, not the only one. We've been talking
18 about several things, right?

19 INVESTIGATOR WECHTER: Right, right. I just want to make
20 sure I capture everything.

21 [REDACTED]: Okay, yes.

22 INVESTIGATOR WECHTER: [unintelligible] is the actions
23 of the officers in their approach to Luis Gongora.

24 [REDACTED]: Uh-huh.

25 INVESTIGATOR WECHTER: Their use of force. Whether that
26 conforms with Department regulations, laws, [unintelligible]
27 claiming that the Department did not provide [unintelligible]
28 anyone else who may have been involved regarding the information

1 to the Chief regarding [unintelligible].

2 [REDACTED]: And in some [unintelligible] ways covering
3 up, like I'm very concerned because one of the witnesses
4 [unintelligible] that what Luis had picked up from his hand and
5 this act of prompting by police asking where's the knife that he
6 showed him not the knife that was shown at the town hall meeting
7 on a poster but a cake spatula. And so I am concerned that
8 evidence from the crime scene investigation has been manipulated.

9 INVESTIGATOR WECHTER: [unintelligible]

10 [REDACTED]: Yes.

11 INVESTIGATOR WECHTER: [unintelligible] you told her
12 that you had been in contact with some of the witness groups
13 [unintelligible].

14 [REDACTED]: Yeah, so-

15 INVESTIGATOR WECHTER: As you know, the homeless camp
16 that was there are not longer there.

17 [REDACTED]: Right. It is-

18 INVESTIGATOR WECHTER: [unintelligible]

19 [REDACTED]: Here's what I know about this and this is the
20 best way to go about doing it. It is my understanding that
21 [unintelligible] Mission Neighborhood Health Clinic has the
22 information of these witnesses. I am also of the understanding
23 that the witnesses because of what happened in the aftermath of
24 the shooting are being represented by a lawyer called Emily Rose.
25 So I think if you get in contact with Laura-you have her number?

26 INVESTIGATOR WECHTER: You can give it to me. Here's the
27 problem [unintelligible] the law prevents health care providers
28 of any kind from disclosing information about their patients

1 without consent. So typically she will not even be able to tell
2 me whether those individuals are clients of hers because of the
3 confidentiality restrictions.

4 [REDACTED]: Hold on, let me see if I have Emily
5 [unintelligible].

6 INVESTIGATOR WECHTER: [unintelligible] she could
7 potentially pass on the message to them but typically health care
8 providers cannot tell us whether the individuals are clients.
9 Really any health care.

10 [REDACTED] So [unintelligible] I have an email for her,
11 for Emily Rose.

12 INVESTIGATOR WECHTER: Okay.

13 [REDACTED] Okay. And it's just like hear it, [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

17 INVESTIGATOR WECHTER: [REDACTED]

18 [REDACTED]: .com

19 INVESTIGATOR WECHTER: [REDACTED]

20 [REDACTED]: Yes.

21 INVESTIGATOR WECHTER: Is that correct?

22 [REDACTED]: Yeah.

23 INVESTIGATOR WECHTER: Okay. And do you have a phone
24 number for her?

25 [REDACTED] I don't. That's all I've got. Oh no, hold on.
26 Sorry, I looked in an email, I'm looking right here. [REDACTED]

[REDACTED]

28 INVESTIGATOR WECHTER: Okay. Do you know what capacity

1 Ms. Rose is [unintelligible]?

2 [REDACTED] I think it's precisely to assist them in any-
3 any testimonies [unintelligible] because obviously the concern,
4 this has happened with other witnesses, that not necessarily with
5 you guys but [unintelligible] the police is that they might get
6 harassed, you know, because of their history. So I think she is
7 trying to—she has volunteered her services.

8 INVESTIGATOR WECHTER: Okay. Now which witnesses do you
9 know, because I want to make sure? I have a list here.

10 [REDACTED] Okay. So the ones that I can tell, I'm
11 reading off the page. Is like you have housed and unhoused
12 witnesses, right? So you have [unintelligible], right. Then you
13 have an anonymous witness which was [unintelligible] neighbor and
14 he saw this through their kitchen window. Then you have this
15 woman [REDACTED] [unintelligible] who is the one is seen running
16 across in the video. And you have a woman who didn't give her
17 last name, her name is [REDACTED] and she was quoted by the Mission
18 Local about the shooting. Those are people who are not part of
19 the encampment.

20 As part of the unhoused witnesses it is my understanding
21 that we have [REDACTED] [unintelligible] and a man who was
22 [unintelligible]. And also you have [unintelligible] who called
23 the police who's names we don't know. We have [unintelligible]
24 obviously the officers involved including the third officer who
25 arrived.

26 INVESTIGATOR WECHTER: Right, right. I'm really talking
27 about [unintelligible].

28 [REDACTED] Okay. So that's who—that's the

1 [unintelligible].

2 INVESTIGATOR WECHTER: Have you had contact with any of
3 the unhoused witnesses?

4 [REDACTED] I did early on and—but I haven't since.
5 [unintelligible] but this was in the early days like right after
6 the shooting and my main person there was to make sure that they
7 had the [unintelligible] was to make sure that we're not stepping
8 on each other's toes. [unintelligible] helping with unhoused
9 witnesses are now involved.

10 INVESTIGATOR WECHTER: And one thing I want to emphasize
11 that [unintelligible] is that our investigations are somewhere
12 different from criminal investigations in that it's entirely
13 confidential, it's going to determine whether officers complied
14 with Department regulations [unintelligible]. It does not go to
15 court, it doesn't go to any public forum. [unintelligible] or by
16 the Police Commission [unintelligible] closed to the public. So
17 witnesses names or what they said would not be [unintelligible]
18 written reprimand up to termination and then [unintelligible].

19 [REDACTED] Okay. I imagine I mean it's so complicated
20 because there's no transparency in this, right? The officers get
21 to know who the witnesses are. In any case—

22 INVESTIGATOR WECHTER: Well that's only—it's only if it
23 goes [unintelligible].

24 [REDACTED] Which is what we would hope, right, otherwise
25 why would the witnesses come forward?

26 INVESTIGATOR WECHTER: I can't say anything about that
27 because [unintelligible].

28 [REDACTED] Right, you're the investigator.

1 INVESTIGATOR WECHTER: I'm an investigator but the
2 decision on whether to [unintelligible].
3 [REDACTED] Okay.
4 INVESTIGATOR WECHTER: [unintelligible] it is not open
5 to public scrutiny because [unintelligible].
6 [REDACTED] Okay.
7 INVESTIGATOR WECHTER: So the officers also are notified
8 [unintelligible].
9 [REDACTED] Okay.
10 INVESTIGATOR WECHTER: [unintelligible] I also need to
11 get the contact information. Can I get your address?
12 [REDACTED]: You should probably already have it. It's
13 [unintelligible] [REDACTED] [REDACTED]. Is this information going to
14 be provided to the officers?
15 INVESTIGATOR WECHTER: It's typically on the complaint
16 form unless you ask that we withhold it.
17 [REDACTED] Can you withhold my-my name is okay but my
18 personal information.
19 INVESTIGATOR WECHTER: Yes [unintelligible].
20 [REDACTED] Okay.
21 INVESTIGATOR WECHTER: And is there an apartment number
22 there?
23 [REDACTED]: No.
24 INVESTIGATOR WECHTER: What's the zip code?
25 [REDACTED]: It's [REDACTED]
26 INVESTIGATOR WECHTER: Phone number [REDACTED]
27 [unintelligible].
28 [REDACTED] Uh-huh.

1 INVESTIGATOR WECHTER: Is there any other number?

2 [REDACTED] That's the main one.

3 INVESTIGATOR WECHTER: And your date of birth?

4 [REDACTED] [REDACTED] [REDACTED] [REDACTED]

5 INVESTIGATOR WECHTER: For statistical purposes do you
6 want to give us your race, ethnicity and occupation?

7 [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

8 [REDACTED] [REDACTED] [REDACTED]. And also—do you need my
9 profession?

10 INVESTIGATOR WECHTER: It's optional. As for occupation
11 it's something that we compile for statistical purposes because
12 we make annual reports to the Police Commission and the public.

13 [REDACTED]: You can just say I'm a [REDACTED]

14 INVESTIGATOR WECHTER: Okay. Anything we haven't
15 discussed that you want us to know?

16 [REDACTED]: No, it's all fine. I guess I'm just thinking
17 that I wasn't told in my past interview that I could withhold
18 this information. I didn't even know that it could be made
19 publically available to officers.

20 INVESTIGATOR WECHTER: I will ask that it be withheld.

21 [REDACTED]: For the other complaints I filed, thank you.

22 INVESTIGATOR WECHTER: As you probably know you're a co-
23 complainant in this complaint. There are other complainants
24 [unintelligible].

25 [REDACTED] Sure.

26 INVESTIGATOR WECHTER: Any member of the public has a
27 right to file a complaint [unintelligible].

28 [REDACTED] 164-16. 164-16, okay.

1 INVESTIGATOR WECHTER: And what I'll be doing is
2 completing [unintelligible] and it will have a narrative
3 summarizing [unintelligible] and once it goes through a
4 preliminary review process I'll be mailing you a copy of that,
5 that will have my name on it. And then I believe every ninety
6 days you'll receive [unintelligible]. At the conclusion of the
7 investigation you wish to [unintelligible].

8 [REDACTED] Okay, that sounds good.

9 INVESTIGATOR WECHTER: Okay. Any questions?

10 [REDACTED] Just one question but it's related to what
11 you said, if I wanted to look at [unintelligible] what did you
12 call it, a summary?

13 INVESTIGATOR WECHTER: [unintelligible] report.

14 [REDACTED] [unintelligible]

15 INVESTIGATOR WECHTER: They're on the [unintelligible]
16 website under the tab for reports.

17 [REDACTED] Okay. I'll look that up.

18 INVESTIGATOR WECHTER: And those are separate from the
19 annual quarterly reports that we make. But these are listed by
20 month. We also have them in large loose-leaf binders if a member
21 of the public wanted to come down here and look through a hard
22 copy if they didn't have access to [unintelligible].

23 [REDACTED] Okay. And they're mostly summaries
24 [unintelligible].

25 INVESTIGATOR WECHTER: Okay.

26 [REDACTED] Okay, thank you.

27 INVESTIGATOR WECHTER: Okay, you're very welcome.

28 [REDACTED] Okay, bye. Thank you.

1 INVESTIGATOR WECHTER: [unintelligible]

2 END OF DOCUMENT

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